

CHAPTER 4-10.5 SOYBEAN COUNCIL

4-10.5-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means agriculture commissioner or the commissioner's designated representative.
2. "Council" means the North Dakota soybean council.
3. "Designated handler" means any person who initially places soybeans, whether as an owner, agent, or otherwise, into the channels of trade and commerce, or who is engaged in the processing of soybeans into food for human consumption in any form. A grower selling the grower's unharvested soybeans, or delivering the grower's soybeans from the farm on which they are produced to storage facilities, packing sheds, or processing plants, within the state, is not considered to be a designated handler. For the purposes of assessments and reporting, "designated handler" includes a grower selling the grower's unharvested soybeans out of state, or delivering the grower's soybeans from the farm where they were produced to any storage facility, packaging shed, or processing plant located outside the state.
4. "Grower" means any person who plants, raises, and harvests soybeans from more than ten acres [4.05 hectares].
5. "Participating grower" means a grower who has not been exempted from the payment of taxes on soybean production under this chapter for a particular year, or a grower who is not exempt from the payment of taxes on soybean production under this chapter.
6. "Person" means an individual, partnership, corporation, limited liability company, association, grower, cooperative, or any other business unit.
7. "Processor" means a person who is actively engaged in the processing of soybeans for human consumption.
8. "Soybeans" means any and all varieties of soybeans, excluding edible beans, harvested within the state.

4-10.5-02. North Dakota soybean council - Membership - Election - Term. The North Dakota soybean council must be composed of one participating grower elected from each of the districts established in section 4-10.5-03. The chairman of the council must be a member of the council elected by a majority vote of the council. The commissioner is an ex officio member of the council. Every elected council member must be a resident of and participating grower in the district the member represents. The term of each elected member is three years, beginning on April first of the year of election, except that initially two members must be elected for three-year terms; three members must be elected for two-year terms; and three members must be elected for one-year terms as designated by the commissioner. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this chapter, the member's office is deemed vacant and the council shall, by majority vote, appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in the manner the commissioner deems fair and reasonable. All elections must be conducted no later than April first of each year. No elected member of the council is eligible to serve more than two consecutive three-year terms.

4-10.5-03. Soybean districts - Establishment. The following soybean districts are established for the purpose of dividing the state into districts containing as nearly equal soybean acreages as practicable:

1. District one consists of Richland County.
2. District two consists of the counties of Ransom, Sargent, Dickey, and LaMoure.
3. District three consists of Cass County.
4. District four consists of the counties of Barnes, Griggs, and Steele.
5. District five consists of Traill County.
6. District six consists of Grand Forks County.
7. District seven consists of the counties of Walsh, Pembina, and Nelson.
8. District eight consists of all remaining North Dakota counties where soybeans are grown.

4-10.5-04. Meetings - Quorum - Compensation and expenses of council. All meetings of the council must be called by the chairman except special meetings which must be called by the chairman on the petition of three council members within seven days of receiving the petition. The council shall determine the amount of compensation payable to each member of the council, except the commissioner. The amount payable may not exceed seventy-five dollars per day plus reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council, except that no compensation may be paid to any council member who receives compensation or salary as a regular state employee or official.

4-10.5-05. Expenditure of funds. The council or its designated agent shall approve every expenditure of funds made pursuant to this chapter and submit the approved expenditure upon an itemized voucher to the office of the budget for approval. Items are to be paid by warrant-check issued by the office of management and budget.

4-10.5-06. Council powers and duties. In the administration of this chapter, the council may:

1. Contract and cooperate with any person or with any governmental department or agency for research, education, publicity, promotion, and transportation for the purposes of this chapter.
2. Expend the funds collected pursuant to this chapter and appropriated for its administration.
3. Appoint, employ, bond, discharge, fix compensation for, and prescribe the duties of such administrative, clerical, technical, and other personnel as it may deem necessary.
4. Accept donations of funds, property, services, or other assistance from public or private sources for the purpose of furthering the objectives of the council.
5. Investigate and prosecute in the name of the state any action or suit to enforce the collection or ensure payment of the taxes authorized by this chapter, and to sue and be sued in the name of the council.

6. Formulate policies and programs regarding the discovery, promotion, and development of markets and industries for the utilization of soybeans grown within the state.

4-10.5-07. Tax levies - Collection - Reports. Effective August 1, 1995, an assessment at the rate of one-half of one percent of the value of the sale must be levied and imposed upon all soybeans sold to a designated handler. This assessment is due upon any identifiable lot or quantity of soybeans.

A designated handler of soybeans shall file an application with the council on forms prescribed and furnished by the council. The forms must contain the name under which the designated handler is transacting business within the state, the designated handler's places of business, the location of loading and shipping places of agents of the designated handler, the names and addresses of the several persons constituting the firm partnership, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state, and, if a limited liability company, the limited liability company name and the names and addresses of its principal managers and agents within this state. The council shall issue a certificate to the designated handler. A designated handler may not sell, process, or ship any soybeans until it has furnished a certificate as required by this section.

Every designated handler of soybeans shall collect the assessment imposed by this section by charging and collecting from the seller the assessment at the rate of one-half of one percent of the value of the sale by deducting the assessment from the purchase price of all soybeans subject to the assessment and purchased by the designated handler.

Every designated handler shall keep as a part of its permanent records a record of all purchases, sales, and shipments of soybeans, which may be examined by the council at all reasonable times. Every designated handler shall report to the council, in a manner and at a time prescribed by the council, stating the quantity in individual and total amounts of soybeans received, sold, or shipped by it. The report must state from whom each individual amount was received. The remittance of the assessment as provided in this section must accompany the report. All moneys levied and collected under this chapter must be paid within thirty days of the end of each quarterly period to the council for deposit in the state treasury to the credit of an account designated "soybean fund" to be used exclusively to carry out this chapter. Quarterly periods end on March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Regular audits of the council's accounts must be conducted in accordance with chapter 54-10 and submitted to the commissioner.

4-10.5-08. Nonparticipating growers - Refunds. Repealed by S.L. 1997, ch. 65, § 1.

4-10.5-09. Advisory referendum by growers. Whenever fifteen percent of the participating growers, with not more than fifty percent of the signatory parties from any one district, as disclosed by the records of the council for the preceding year, petition the council, the council shall conduct an advisory referendum among the participating growers of the state to determine whether they wish the legislative assembly to raise or lower the tax imposed by section 4-10.5-07. The advisory referendum may be conducted only among participating growers who have paid all taxes assessed pursuant to this enactment for the preceding year, and the ballots must be prepared by the council and mailed to each participating grower at least thirty days prior to the last date for filing ballots. In addition, each ballot must be accompanied by a notice to each participating grower:

1. Of the date of the filing of the petition by the growers for the referendum and the number of signatures contained thereon.
2. Of the date and place where the council will open and tabulate the ballots, which date may not be less than five days after the last date for filing the ballots.
3. Of the last date upon which ballots may be filed with the council, or postmarked if delivered to the council by mail.

4. That any participating grower may attend the meeting of the council at the time the ballots are opened and the votes tabulated.

If a majority of the participating growers voting upon the question are in favor of the proposed change, the council shall certify the result to the commissioner with the request that the commissioner prepare a bill to submit to the next legislative session to modify this chapter in conformity therewith.

4-10.5-10. Collection of unpaid assessment. If a designated handler fails to pay the assessment provided by this chapter, the council may enforce collection in any appropriate court within this state.

4-10.5-11. Penalty for nonpayment of assessment. Any designated handler who fails to pay any assessment levied by this chapter on the date that the assessment becomes due is delinquent and the council shall levy a penalty on the delinquent payments of a two percent late payment charge per month for assessments not remitted on time. The penalty and interest must be collected in the manner prescribed by section 4-10.5-10.

4-10.5-12. Continuing appropriation. All funds received by the council pursuant to this chapter are hereby appropriated.

4-10.5-13. Records of council - Inspection. All of the records of the council, including acreage reports, tax returns, claims of exemption, and any other data, records, or information retained by the council are public information and must be available for the inspection of any person for any lawful purpose during regular business hours at the office of the council.

4-10.5-14. Penalty. Any person who willfully violates this chapter is guilty of a class B misdemeanor.